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FM AMEMBASSY BUCHAREST

TO RUEHC/SECSTATE WASHDC PRIORITY 5922

INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE PRIORITY

RUEAWJA/DEPT OF JUSTICE WASHDC PRIORITY

RUEHGV/USMISSION GENEVA PRIORITY 0377

RUEKJCS/SECDEF WASHINGTON DC PRIORITY

RUCNDT/USMISSION USUN NEW YORK PRIORITY 0123

S E C R E T SECTION 01 OF 02 BUCHAREST 000104

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DEPT FOR EUR/NCE AARON JENSEN AND DAVID KOSTELANCIK  
DOJ FOR OIA

E.O. 12958: DECL: 01/31/2016

TAGS: [CASC](#) [KJUS](#) [MARR](#) [PGOV](#) [PREL](#) [UNHCR](#) [IZ](#) [RO](#)

SUBJECT: RFG: MUNAF'S CASE IN UNHCR; ROMANIA SEEKS US VIEWS

REF: BUCHAREST 1883

Classified By: DCM Mark A. Taplin for Reasons 1.4(b) and (d).

¶1. (SBU) This is a request for Action. Please see para. 7.

¶2. (C) MFA State Secretary Adrian Vierita asked to meet with DCM and Acting Polcouns on January 30 to discuss a complaint filed with the UN High Commissioner for Human Rights on behalf of dual Iraqi/US citizen Mohammad Munaf, who was convicted and sentenced to death last year in the 2005 kidnapping of 3 Romanian journalists in Iraq. Vierita said that the Note Verbale from the Commission (complete text of note is copied below in para 8) requested Romania as a state party to the Optional Protocol to the International Covenant on Civil and Political Rights, to "adopt all necessary measures to ensure" Munaf and his family are protected from irreparable damage. According to Vierita, these interim measures are independent of any challenge to the admissibility of the complaint against the GOR, according to the Human Rights Committee's rules of procedure.

¶3. (C) Vierita informally was seeking consultation with the USG on ways to respond to the complaint, which was been filed by Munaf's American legal counsel before the UN Human Rights Committee (case number 1539/2006). He noted that the GOR already was not in full compliance with the note which requested the GOR to inform the Committee no later than January 22, of the steps taken to protect Munaf's "life, safety and personal integrity."

¶4. (C) Vierita outlined the GOR's proposed approach for a response to the complaint before the UN Human Rights Commission. First, the GOR would establish that it is taking steps to address the interim measures regarding Munaf. These would include reaffirming the GOR's commitment to all of the international protocols and conventions aimed at abolition of the death penalty (consistent with Romania's EU obligations). Vierita said he would consider the present meeting with Emboffs as an official conveyance of this position to the one of the principal parties in the Munaf case (i.e., the U.S., which has Munaf under physical custody). NOTE: Vierita on January 31 shared with Embassy a draft Note Verbale that conveys this position against the death penalty to Iraq, which retains legal custody over Munaf).

¶5. (C) Secondly, Vierita noted that the GOR must challenge the legal admissibility of the complaint to the Human Rights Committee by February 21, including the question of whether Romania had jurisdiction over Munaf at any time before he was turned over to MNF-I in Baghdad. Vierita described this point as a critical one to Romania's effort to push back on the UN

complaint. He asked whether the USG could help in establishing a chronology of events leading up to and following Munaf's arrest, particularly with an emphasis on his legal status when he was being transferred to and from the Romanian embassy in Baghdad, reportedly under US military escort. DCM suggested the MFA first review the compliant and chronology with the Romanian Ministry of Justice and the Procurator-General's Office, since the prosecutor's office in particular has interviewed Munaf in Iraq on several occasions in connection with criminal cases it is pursuing related to the kidnapping of the journalists. He observed that the GOR would probably have a better chronology of events surrounding Munaf's whereabouts in Baghdad during the period before his arrest by MNF-I forces than did the U.S. At the same time, the DCM stressed, it was in the interest of both of our governments to deflect legal motions and complaints like this that were clearly designed as much to embarrass us as to protect Munaf's interests.

¶ 6. (C) The DCM expressed appreciation to Vierita for keeping the Embassy informed on the Munaf case (as was agreed per reftel). He noted that we would pass this information back to Washington, and ask for advice from relevant USG offices and agencies in how we might help the GOR prepare its upcoming challenge to the legal admissibility of the complaint from the UN Human Rights Committee.

¶ 7. (C) Informally, Vierita asked DCM whether the USG approach to the Munaf case remained the same as before, despite the significant developments that have taken place since his arrest in 2005. The DCM replied that he did not know whether there had been a policy review of Munaf's status since he was put under Iraqi legal custody, tried, convicted and sentenced to death in 2005, but would raise the question.

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¶ 8. (C) Action Request: Embassy seeks Department's assistance in addressing the issues raised by the UN Human Rights Committee's Note Verbale to the GOR. We particularly seek L's advice on how best to support the GOR in what appears to be a convoluted effort by Munaf's lawyers to, first and foremost, cast U.S. policy towards Iraq detainees in a negative light, and secondarily, embarrass the GOR. (Note: Supporting documentation faxed to EUR/NCE. End Note). We would also welcome an update on interagency views on the Munaf case, which will return to the top of the political agenda in Romania should the Iraqi-American be executed by Iraqi authorities. Romanian President Basescu has made it clear he retains a strong interest in seeing Munaf extradited to Romania to testify in a trial of Munaf's co-conspirator in the kidnapping, Syrian-Romanian businessman Omar Hayssam. End Action Request.

¶ 8. (SBU) Begin text of Note Verbale:

United Nations  
High Commissioner for Human Rights

Reference G/SO 215/51 ROU (2)  
MSTP:sn 1539/2006

The Secretariat of the United Nations (Office of the High Commissioner for Human Rights) presents its compliments to the Permanent Mission of Romania to the United Nations and has the honor to transmit herewith the text of a communication, dated 13 December 2006, submitted to the Human Rights Committee for consideration under the Optional Protocol to the International Covenant on Civil and Political Rights, on behalf of Mr. Mohammad Munaf. The communication has been registered before the Human Rights Committee as case No. 1539/2006.

Pursuant to rule 92 of the Committee's rules of procedure, the Committee's Special Rapporteur for New Communication and interim measure requests the State Party to ensure, to the

extent possible and through whatever channels it deems appropriate, to adopt all necessary measures to ensure that the life, safety and personal integrity of Mohammad Munaf and his family are protected, so as to avoid irreparable damage to them, while this case is under consideration by the Committee, and to inform the Committee on the measure taken by the State party in compliance with this decision within 30 days from the date of the Note Verbale , i.e. not later than by 22 January 2007; this request does not imply that any decision has been reached on the substance of the matter under consideration.

Under rule 97, paragraph 2, of the Committee's rules of procedure, the Special Rapporteur further requests His Excellency's Government to submit to the Committee information and observations in respect of both the admissibility and the merits of the author's allegations.

The information requested from His Excellency's Government under rule 97, paragraph 2, of the Committee's rules of procedure should reach the Committee in care of the Office of the United Nations High Commissioner for Human Rights at Geneva, within six months of the date of this note, that is not later than 21 June 2007.

If His Excellency's Government wished to challenge the admissibility of the present communication, the State party is requested, pursuant to rule 97, paragraph 3, of the Committee's rules of procedure, to submit its observations on admissibility of the communication does not in itself extend the deadline of six months within which to submit written information and observation on the merits of the author's allegations.

This request for information and observations does not imply that any decision has been reached in respect of the admissibility or the merits of the present communication.

/s/  
21 December 2006

END TEXT.  
TAUBMAN